



U.S. Department of Justice
Civil Rights Division
Educational Opportunities Section

SS:RW:AA:CBP:PWB
DJ 169-40-92

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November 14, 2016

Via Email

The Honorable Debra M. Brown
United States District Court
Northern District of Mississippi
305 Main Street
Suite 329
Greenville, MS 38701
Judge_Brown@msnd.uscourts.gov

**Re: Cowan & United States of America v. Bolivar County Board of Education
(Cleveland School District), No. 2:65-cv-00031-DMB (N.D. Miss.)**

Dear Judge Brown:

Plaintiff-Intervenor United States respectfully requests clarification regarding the Court's Scheduling Order dated October 25, 2016 ("Scheduling Order"). (Doc. No. 244.) Pursuant to the Scheduling Order, the Cleveland School District ("the District") was permitted to file a reply to the joint objections of the United States and the Private Plaintiffs (together, "Plaintiff Parties") to the District's Proposed Modified Plan ("Modified Plan") no later than October 28, 2016.

By email dated October 27, 2016, counsel for the District informed the Court that the District had elected not to file a reply to Plaintiff Parties' objections. The District's statement that it "specifically reserves all of its arguments for presentation at the hearing" is in conflict with the Court's directive during the October 25, 2016, status conference, that the District be fully and immediately forthcoming with any relevant evidence.

The United States respectfully submits that, notwithstanding the District's decision to waive its right to submit a reply brief in support of its Modified Plan, the Court has before it all of the information necessary to rule on the constitutionality of the District's eleventh-hour attempt to circumvent the Court's carefully reasoned May 13, 2016, Order.

In addition, the United States is concerned that with the parties unable to convene for a hearing until January 2017, the District's extremely optimistic timeline for implementing the Modified Plan in time for the beginning of the 2017-18 school year becomes increasingly

unrealistic. In contrast, the Court's May 13 Order could be implemented in time for the fall semester.

Should the Court conclude that an evidentiary hearing on the Modified Plan is still necessary, the United States will continue to work with the District to complete all necessary discovery in advance of that hearing pursuant to the Scheduling Order. In order to schedule expert and fact witnesses for an evidentiary hearing, the United States seeks from the Court a date for the January 2017 hearing.

Thank you for your consideration.

Sincerely,

Aziz Ahmad
Counsel for Plaintiff-Intervenor

cc: Holmes S. Adams, Esq.
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